In the High Court of Punjab and Haryana, Chandigarh.

I.T.R. No.90 of 1998

Date of Decision: 6.3.2007

The Commissioner of Income-tax, Patiala. …Petitioner.

Versus

M/s Goyal Electric Stores (P) Ltd. …Respondent.

CORAM: HON'BLE MR.JUSTICE M.M.KUMAR
HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr.Vivek Sethi, Advocate
for Mr.S.K.Garg Narwana, Advocate
for the revenue.

JUDGMENT

M.M.KUMAR, J. (ORAL)

The revenue has approached this Court against the order dated 14.5.1997 passed by the Income-tax Appellate Tribunal, Chandigarh Bench, Chandigarh, in I.T.A. No.1742 to 1745/Chd./1992 in respect of the assessment year 1988-89, claiming that the following substantial question of law would arise for determination:-

> "Whether on the facts and in the circumstances of the case, the ITAT was right in law in holding that as per Explanation 3 to Section 271(1)(c) which was operative during assessment year 1988-89, penalty u/s 271(1)(c) could not be levied in the case of an old assessee who has not filed a valid return although concealment of income has actually occurred?"

It is appropriate to mention that the total penalty imposed by the Assessing Authority was Rs.45,000/- which had been set aside by the Tribunal vide its order dated 14.5.1997. This Court had issued notice of motion to the assessee and despite issuance of dasti notice, the assessee-respondent has not been served. The revenue has placed on record a letter bearing F.No.DCIT/C.3(1)CHD/06-07/191 dated 17.1.2007 stating as under:-

> "It is humbly submitted that both the respondent firm and company has since been closed, as per enquiries made from the House No.1295, Sector 19-B, Chandigarh the last known address of the respondent. Their partner/director Shri Hans Raj Goyal, Shri Budh Ram Goyal and Smt.Kala Rani have since expired. Moreover, the assessment record of these assessees are not traceable. Shri Rattan Goyal s/o Shri Hans Raj Goyal, who is residing in this house has given this information and expressed his willingness to receive this notice in view of the present situation. As such service of the fixation notice for 22nd January, 2007 could not be affected".

In view of the fact that the assessee-respondent company has been wound up, its directors have expired and the revenue has stated that assessment records of the assessee are not traceable.

In view of above, we return the question unanswered.

(M.M.KUMAR)
Judge

March 6, 2007 **(RAJESH BINDAL)**
dkb **Judge**